

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT of INDIANA
Indianapolis Division

FILED

08/17/2023

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, Clerk

JOEY KIMBROUGH,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY AKA
AMERICAN EXPRESS NATIONAL
BANK;

and

TRANS UNION LLC (*settled and
dismissed*)

Defendants.

Case No. 1:22-cv-1993-TWP-MJD

Honorable Tanya Walton Pratt
Magistrate Judge Mark J. Dinsmore

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S
OPPOSITION TO DEFENDANT'S MOTION TO COMPEL ARBITRATION**

I. INTRODUCTION

Plaintiff Joey Kimbrough ("Plaintiff" or "Kimbrough"), by and through counsel, submits this memorandum of law in strong opposition to Defendant American Express National Bank's ("AMEX" or "Defendant") motion to compel arbitration. While the Federal Arbitration Act ("FAA") supports a policy in favor of arbitration, it does not obviate the application of state law contract defenses. The core issue in this dispute pertains to the enforceability of the arbitration provision

contained within the Cardmember Agreements. The arbitration clause, as proffered by AMEX, is both procedurally and substantively unconscionable. This position is further bolstered by AMEX's contradictory behavior, notably its decision to initiate a separate legal proceeding in Howard Superior Court under the case caption **American Express National Bank v. Joey Kimbrough, 34D04-2112-CC-003201**, filed on 12/08/2021. Such actions underscore the inequities inherent in enforcing the arbitration clause and weigh heavily against its enforceability.

Respectfully Submitted,

/s/ Joey Kimbrough
Joey Kimbrough, Plaintiff, Pro Se
1712 Candy Court South
Kokomo, IN 46902
(765) 437-8451
joeykokomo2002@yahoo.com

Certificate of Service

I hereby certify that on August 17th, 2023, I electronically filed the foregoing with the Clerk of the Court by email with attachments as is required by the Court. Service was made on counsel by email:

Distribution:

All ECF-registered counsel of record via email

Joey Kimbrough
1712 Candy Court South
Kokomo, IN 46902

Respectfully Submitted,
/s/ Joey Kimbrough